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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 622

RIN 0648-BB97

Fisheries of the Caribbean, Gulf of Mexico, and South Atlantic;

Reef Fish Fishery of the Gulf of Mexico; Amendment 35

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Notice of availability; request for comments.

SUMMARY: The Gulf of Mexico Fishery Management Council (Council) has submitted Amendment 35 to the Fishery Management Plan for the Reef Fish Resources of the Gulf of Mexico (FMP) for review, approval, and implementation by NMFS. Amendment 35 proposes to modify the greater amberjack rebuilding plan; establish greater amberjack sector annual catch limits (ACLs) and sector annual catch targets (ACTs); establish a commercial trip limit for greater amberjack; and revise the sector accountability measures (AMS) for greater amberjack. The intent of Amendment 35 is to end overfishing of greater amberjack, modify the greater amberjack rebuilding plan and help achieve optimum yield (OY) for the greater amberjack resource in accordance with the requirements of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act).

DATES: Written comments must be received on or before [insert date 60 days after date of publication in the FEDERAL REGISTER].

ADDRESSES: You may submit comments on the amendment identified by "NOAA-NMFS-2012-0107" by any of the following methods:

- Electronic submissions: Submit electronic comments via the Federal e-Rulemaking Portal:
<http://www.regulations.gov>. Follow the "Instructions" for submitting comments.
- Mail: Rich Malinowski, Southeast Regional Office,
NMFS, 263 13th Avenue South, St. Petersburg, FL
33701.

Instructions: All comments received are a part of the public record and will generally be posted to <http://www.regulations.gov> without change. All Personal Identifying Information (for example, name, address, etc.) voluntarily submitted by the commenter may be publicly accessible. Do not submit Confidential Business Information or otherwise sensitive or protected information. NMFS will accept anonymous comments (enter N/A in the required field if you wish to remain anonymous).

To submit comments through the Federal e-Rulemaking Portal: <http://www.regulations.gov>, enter "NOAA-NMFS-2012-0107" in the search field and click on "search." After you locate the document "Fisheries of the Caribbean, Gulf of Mexico, and South

Atlantic; Reef Fish Fishery of the Gulf of Mexico; Amendment 35," click the "Submit a Comment" link in that row. This will display the comment web form. You can then enter your submitter information (unless you prefer to remain anonymous), and type your comment on the web form. You can also attach additional files (up to 10MB) in Microsoft Word, Excel, WordPerfect, or Adobe PDF file formats only.

Comments received through means not specified in this notice will not be considered.

For further assistance with submitting a comment, see the "Commenting" section at <http://www.regulations.gov/#!faq> or the Help section at <http://www.regulations.gov>.

Electronic copies of the amendment may be obtained from the Southeast Regional Office Web site at <http://sero.nmfs.noaa.gov>.

FOR FURTHER INFORMATION CONTACT: Rich Malinowski, Southeast Regional Office, NMFS, telephone 727-824-5305; e-mail: rich.malinowski@noaa.gov.

SUPPLEMENTARY INFORMATION: The Reef fish fishery of the Gulf of Mexico (Gulf) is managed under the FMP. The FMP was prepared by the Council and is implemented through regulations at 50 CFR part 622 under the authority of the Magnuson-Stevens Act. The Magnuson-Stevens Act also requires that NMFS, upon receiving a plan or amendment, publish an announcement in the Federal Register notifying the public that the plan or amendment is

available for review and comment. All greater amberjack weights discussed in this notice are in round weight.

Background

The Magnuson-Stevens Act requires NMFS and regional fishery management councils to prevent overfishing and achieve, on a continuing basis, the OY from federally managed fish stocks. These mandates are intended to ensure fishery resources are managed for the greatest overall benefit to the nation, particularly with respect to providing food production and recreational opportunities, and protecting marine ecosystems. To further this goal, the Magnuson-Stevens Act requires fishery managers to specify their strategy to rebuild overfished stocks to a sustainable level within a certain time frame, to minimize bycatch and bycatch mortality to the extent practicable, and to establish AMs for a stock to ensure ACLs are not exceeded. Amendment 35 addresses these issues for greater amberjack.

Since 1990, the Council and NMFS have implemented a series of management measures to prevent overfishing of the greater amberjack stock and achieve OY. Amendment 1 to the FMP added greater amberjack to the list of species in the FMP, set a recreational minimum size limit of 28 inches (71 cm), established a three-fish recreational bag limit, and set a commercial minimum size limit of 36 inches (91 cm) (55 FR 2079, January 22, 1990). Amendment 12 to the FMP reduced the greater

amberjack recreational bag limit to one fish per person per day (61 FR 65983, December 16, 1996).

Greater amberjack were first determined to be overfished and undergoing overfishing in 2000. Secretarial Amendment 2 established a rebuilding plan for greater amberjack, starting in 2003, based on a stock assessment conducted in 2000 (68 FR 39898, July 3, 2003). A 2006 SEDAR benchmark stock assessment (SEDAR 9 2006c) determined that the greater amberjack stock was still overfished and undergoing overfishing. Amendment 30A to the FMP set the greater amberjack stock total allowable catch at 1,871,000 lb (848,671 kg), for the 2008 through 2010 fishing years. Using an allocation of 73 percent for the recreational sector and 27 percent for the commercial sector, Amendment 30A to the FMP established a recreational quota of 1,368,000 lb (620,514 kg), and a commercial quota of 503,000 lb (228,157 kg) (73 FR 38139, July 3, 2008). Amendment 30A also established greater amberjack AMs. These AMs state that if a sector's landings reach, or are projected to reach the applicable quota, the sector would be closed for the remainder of the fishing year. Additionally, in the event of a quota overage, the respective sector's quota will be reduced in the following fishing year by the amount of the respective sector's quota overage in the prior fishing year.

Status of Stock

In 2010, the Southeast Data, Assessment, and Review (SEDAR) stock assessment update (SEDAR 9 Update) was conducted for greater amberjack. The SEDAR 9 Update indicated that the greater amberjack stock was both overfished and undergoing overfishing. In January 2011, the Council's Science and Statistical Committee (SSC) reviewed the update assessment, determined the assessment to be the best scientific information available, and accepted its conclusions that the stock was undergoing overfishing and is overfished. However, the SSC rejected as unreliable the absolute values that resulted in the conclusions and rejected the assessment's yield projections. Therefore, instead of relying on assessment projections to set the greater amberjack overfishing limit (OFL) and acceptable biological catch (ABC), the SSC used the ABC control rule adopted by the Council in the Generic Annual Catch Limit/Accountability Measure Amendment (Generic ACL Amendment (76 FR 82044, December 29, 2011)). The SSC recommended that the greater amberjack ABC for the next 3 years (2011-2013) be set at 1,780,000 lb (807,394 kg), which is 75 percent of the 2000-2009 commercial and recreational landings mean. The Council was notified of the greater amberjack stock status determination in October of 2011. A new benchmark assessment for greater amberjack is scheduled to occur in 2013.

Actions Contained in Amendment 35

Amendment 35 proposes to modify the greater amberjack rebuilding plan, establish greater amberjack sector ACLs and ACTs (which are expressed as quotas in the regulatory text), revise the greater amberjack sector AMs, and establish a greater amberjack commercial trip limit.

Modifications to the Greater Amberjack Rebuilding Plan

The 10-year greater amberjack rebuilding plan ends in 2012. This action would modify the rebuilding plan in response to the results from the SEDAR 9 Update (2010), subsequent SSC review and SSC recommendations for the greater amberjack ABC.

After reviewing the SEDAR 9 Update (2010) and to emphasize the need for a new benchmark stock assessment, the SSC recommended a constant ABC of 1,780,000 lb (807,394 kg), for a 3-year time period starting in 2011. The new stock ACL that would be established in Amendment 35 would equal the ABC and remain in effect unless changed in a subsequent amendment or framework action, but not prior to the next assessment which occurs in 2013. NMFS believes that ABC recommendation and management measures implemented by the Council will provide the reduction in greater amberjack fishing mortality necessary to end overfishing and rebuild the greater amberjack stock. When the new stock assessment is completed NMFS and the Council will be able to confirm that the greater amberjack stock has met its rebuilding schedule.

ACLs and ACTs

An ACT is a management target established for a fishery to account for management uncertainty in controlling the actual catch at or below the ACL and is used to assist in the ACL not being exceeded. Therefore, a sector ACT should be set with a buffer below the sector ACL, so that the appropriate sector may be closed when the ACT is projected to be reached.

Amendment 35 would establish the greater amberjack ACL equal to the ABC, and set the ACT less than the ACL to account for management uncertainty. The greater amberjack stock ACL would be set at 1,780,000 lb (807,394 kg), and the stock ACT would be set at 1,539,000 lb (698,079 kg). Based on a 27 percent commercial and a 73 percent recreational allocation, the commercial sector ACL would be set at 481,000 lb (218,178 kg), and the recreational sector ACL would be set at 1,299,000 lb (589,116 kg), respectively. The commercial ACT would be set at 409,000 lb (185,519 kg), based on a 15 percent reduction of the ACL to account for management uncertainty. The recreational ACT would be set at 1,130,000 lb (512,559 kg), based upon a 13 percent reduction of the ACL to account for management uncertainty.

AMs

Amendment 35 proposes to modify the greater amberjack AMs, based on the sector ACLs and ACTs. Through Amendment 35, if the

sector ACT is reached or projected to be reached, the appropriate sector would be closed to fishing for the remainder of the fishing year. Post-season AMs, such as overage adjustments, would only occur if the respective sector ACL was exceeded. Any ACL overage by a sector would then reduce both the respective sector's ACL and ACT the following year by the amount of the sector ACL overage in the prior fishing year.

Other Recreational Management Measures

Amendment 35 also contains actions to consider a modification to the greater amberjack recreational minimum size limit and recreational sector's closed season. As decided by the Council, the current greater amberjack recreational sector minimum size limit of 30 inches (76 cm) and the recreational sector closed season of June through July would not be modified in Amendment 35.

Other Commercial Management Measures

Amendment 35 contains actions to modify the commercial closed season and establish a commercial trip limit. In Amendment 35, the Council decided not to modify the current March through May commercial seasonal closure that was established to protect spawning aggregations of greater amberjack. However, Amendment 35 would establish a 2,000-lb (907-kg), commercial trip limit to help extend the commercial sector fishing season.

Proposed Rule for Amendment 35

A proposed rule that would implement Amendment 35 has been drafted. In accordance with the Magnuson-Stevens Act, NMFS is evaluating Amendment 35 to determine whether it is consistent with the FMP, the Magnuson-Stevens Act, and other applicable law. If the determination is affirmative, NMFS will publish the proposed rule in the Federal Register for public review and comment.

Consideration of Public Comments

The Council submitted Amendment 35 for Secretarial review, approval, and implementation. NMFS' decision to approve, partially approve, or disapprove Amendment 35 will be based, in part, on consideration of comments, recommendations, and information received during the comment period on this notice of availability.

Public comments received by 5 p.m. eastern time, on [insert date 60 days after publication in the FEDERAL REGISTER], will be considered by NMFS in the approval/disapproval decision regarding Amendment 35.

Authority: 16 U.S.C. 1801 et seq.

Dated: June 28, 2012

James P. Burgess,
Acting Director,
Office of Sustainable Fisheries,
National Marine Fisheries Service.

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